

**IN THE CIRCUIT COURT OF THE THIRTEENTH JUDICIAL CIRCUIT
IN AND FOR HILLSBOROUGH COUNTY, STATE OF FLORIDA
CIVIL DIVISION**

HILLSBOROUGH COUNTY,

a political subdivision
of the State of Florida,

Petitioner,

vs.

Case No. 08-22694

Division: B

Parcels: 708

DDRTC WALKS AT HIGHWOOD PRESERVE I, LLC,
a foreign Limited Liability Company, et al,

Defendants.

ORDER OF TAKING

THIS CAUSE came before the Court on December 8, 2008, upon the Summons to Show Cause, Notice of Eminent Domain Proceedings and Notice of Hearing and upon the Petition in Eminent Domain filed by HILLSBOROUGH COUNTY, a political subdivision of the State of Florida ("HILLSBOROUGH COUNTY"), to consider this Court's jurisdiction and the sufficiency of the pleadings, to determine whether HILLSBOROUGH COUNTY is properly exercising its delegated authority and is entitled to title and possession of the property described in Schedule "A" annexed hereto in advance of the entry of a final judgment, and further to consider all other matters properly coming before the Court under Chapters 127, 73 & 74, *Florida Statutes*. The Court having heard and considered the arguments of counsel, having reviewed the relevant portions of the record and it appearing that the Petition in Eminent Domain, the Declaration of Taking and all other papers filed herein by HILLSBOROUGH COUNTY are in proper and sufficient form, and the Court being otherwise fully advised in the premises, it is hereby,

ORDERED and ADJUDGED as follows:

1. All parties have been properly served with process or have otherwise submitted themselves to the Court's jurisdiction, and the Court has jurisdiction over the parties and the subject matter of this cause, with the exception of CIRCUIT CITY STORES, INC. ("CIRCUIT CITY") which is currently under the jurisdiction of the United States Bankruptcy Court for the Eastern District of Virginia, Case No. 08-35653 following CIRCUIT CITY's voluntary petition for relief under Chapter 11 of the United States Bankruptcy Code, 11 U.S.C. § 101-1330.
2. HILLSBOROUGH COUNTY has not dismissed any Parcel from this lawsuit.
3. HILLSBOROUGH COUNTY has complied with the applicable provisions of Chapters 73 and 74, *Florida Statutes*, is exercising properly its delegated authority, and is entitled to title and possession of Parcel 708 in advance of the entry of a final judgment. All other conditions precedent to HILLSBOROUGH COUNTY's requested relief have been performed or have occurred.
4. A description of the property being appropriated by HILLSBOROUGH COUNTY, Parcel 708 is set forth in Schedule "A" annexed hereto.
5. HILLSBOROUGH COUNTY has established, and the Court hereby finds, that a reasonable necessity exists for the acquisition of Parcel 708 for the valid public purpose set forth in the Petition in Eminent Domain. The portion of the property that HILLSBOROUGH COUNTY intends to acquire for a temporary construction easement, identified as Parcel 708 is necessary for the purposes of accessing the right of way for constructing, tying-in and harmonizing the project and improvements with the adjoining property and the new right of way line. The temporary construction easement shall remain in effect until final completion of the proposed improvements, for a period not to exceed three and one-half years (3 ½) years from the

date on which HILLSBOROUGH COUNTY acquires its easement interest.

6. HILLSBOROUGH COUNTY's good faith estimate of the value of the property being appropriated, Parcel 708 is based upon a valid appraisal, and is therefore **APPROVED**.

7. HILLSBOROUGH COUNTY's Declaration of Taking sets forth HILLSBOROUGH COUNTY's good faith estimate of the value of Parcel 708 as **TWENTY-ONE THOUSAND FOUR HUNDRED FIFTY DOLLARS AND NO/100 (\$21,450.00)**.

8. Based on the foregoing, HILLSBOROUGH COUNTY's request for an Order of Taking is **GRANTED**.

9. Defendants, DOUG BELDEN, Hillsborough County Tax Collector, and ROB TURNER, Hillsborough County Property Appraiser ("BELDEN" and "TURNER") have filed answers in this action and have not requested, and thus they have waived, an order of taking hearing pursuant to section 74.051(1), *Florida Statutes*. However, both BELDEN and TURNER may have an interest in Parcel 708 for any unpaid *ad valorem* taxes assessed against Parcel 708 which may be due and owing through the date of taking.

10. Pursuant to the Suggestion of Bankruptcy and Notice of Stay of Proceedings filed by Defendant, CIRCUIT CITY, on November 26, 2008, condemnation proceedings are stayed against said Defendant. However, Hillsborough County is seeking to lift the stay against CIRCUIT CITY. Upon the lifting of the stay, Hillsborough County will submit an Order of Taking for any interest CIRCUIT CITY may have in Parcel 708.

11. Based upon the foregoing, it is proper that this Order of Taking as to Parcel 708 should be entered in favor of HILLSBOROUGH COUNTY and against all Defendants named in the Petition in Eminent Domain as their interests may appear with the exception of any interest that CIRCUIT CITY has or may have to the subject parcel until such time as the aforementioned stay is lifted and Hillsborough County attains an order of taking against the interest of CIRCUIT

CITY.

12. Pursuant to section 74.051(3), *Florida Statutes*, HILLSBOROUGH COUNTY shall deposit into the Registry of this Court the sum of its total good faith estimates of value of Parcel 708 in the amount of **TWENTY-ONE THOUSAND FOUR HUNDRED FIFTY DOLLARS AND NO/100 (\$21,450.00)** within twenty (20) days from the entry of this Order, which total sum of money will fully secure the persons entitled to compensation until ultimately determined by the final judgments of this Court.

13. Upon HILLSBOROUGH COUNTY's deposit of its good faith estimates of value into the Court's registry, and without further notice and order of this Court, as evidenced by the Clerk's Certificate of Deposit, HILLSBOROUGH COUNTY shall be vested with a temporary construction easement to Parcel 708, as described in Schedule "A" attached hereto, and HILLSBOROUGH COUNTY shall thereupon be entitled to immediate possession of Parcel 708, and such temporary construction easement shall remain in effect until final completion of the proposed improvements, for a period not to exceed three and one-half (3 ½) years and the right to compensation for the same shall vest in the persons named as Defendants in these proceedings once the aforementioned deposit is made.

14. Within thirty (30) days after the date of the Clerk's certificate of HILLSBOROUGH COUNTY's deposit of the monies herein ordered to be deposited, the persons named as Defendants in these proceedings shall remove from Parcel 708 all portable improvements, fixtures or other items presently within the area of taking over which they claim ownership and wish to retain possession, with the exception of the pylon sign that is partially located within Parcel 708 but is not subject to this taking. If such improvements, fixtures and other items are not removed within said time, they are deemed to have been abandoned, with the exception of the above-mentioned pylon sign.

15. That construction of Bruce B. Downs Boulevard from Palm Springs Boulevard to Pebble Creek Drive roadway improvements, Project No. 2005-044-R shall substantially conform to the construction plans identified as Hillsborough County Composite Exhibit "1", and that Hillsborough County shall maintain continuous driveway access at all times.

16. The Court retains jurisdiction for determination of pro-rated *ad valorem* taxes; full compensation, within respect to Parcel 708, apportionment and reasonable fees and costs to be taxed against HILLSBOROUGH COUNTY as to Parcel 708.

DONE and ORDERED in Chambers at Tampa, Hillsborough County, Florida on this _____ day of _____, 2008.

CHARLENE E. HONEYWELL
Circuit Court Judge
Case No. 08-22694

ORIGINAL SIGNED

DEC 08 2008

**CHARLENE E. HONEYWELL
CIRCUIT JUDGE**

Copies furnished to:
Dean R. DiRose, Esquire
Eric Watkins, Real Estate Dept.
William Alford, Public Works Dept.
Barry Brozovich, Accounting Dept.
All Parties on the Attached Service List

SERVICE LISTAll Parcels

Doug Belden, Tax Collector
c/o Brian T. FitzGerald, Esquire
P.O. Box 1110
Tampa, Florida 33601-1110

Robert Turner, Property Appraiser
c/o Nancy Takemori, Esquire
P.O. Box 1110
Tampa, Florida 33601-1110

Parcel 708

DDRTC Walks at Highwood Preserve I, LLC
c/o Attorney, Jennifer A. Bonifield, Esquire
Bonifield Law, P.A.
1025 Professional Park Drive
Brandon, Florida 33511

Chesterfield Financial Corporation
c/o Registered Agent: CT Corporation System
1200 South Pine Island Road
Plantation, Florida 33324

Metropolitan Life Insurance Company
c/o Donald J. Harman
One Madison Avenue
New York, New York 10010

Verizon Florida, LLC
f/k/a Verizon Florida, Inc.,
f/k/a GTE Florida Incorporated,
c/o Registered Agent: CT Corporation System
1200 South Pine Island Road
Plantation, Florida 33324

Michaels Stores, Inc.
c/o Registered Agent: Corporation Service Company
1201 Hays Street
Tallahassee, Florida 32301-2525

Bed Pros, Inc.
d/b/a Bed Pros Mattress Gallery
c/o Registered Agent: James G. McCabe
12836 Commodity Place
Tampa, Florida 33626

Circuit City Stores, Inc.
d/b/a Circuit City
c/o Allan M. Rubin, Esquire &
Suzanne M. Driscoll, Esquire
Shutts & Bowen
National City Center, Suite #2100
200 E. Broward Boulevard
Ft. Lauderdale, Florida

The Covelli Family Limited Partnership
d/b/a Panera Bread
a/k/a Panera/Covelli Family LTD #3342
c/o Joseph F. Scarpa, Jr., Esquire
Luks, Santaniello, Perez, Petrillo & Gold
255 South Orange Avenue, Suite 930
Orlando, Florida 32801

Distinctions, Inc.
d/b/a Distinctions Furniture
c/o Registered Agent: David C. Lanigan
10927 N. 56th Street
Tampa, Florida 33617

Distinctive Home Buyers Realty, Inc.
d/b/a Help-U-Sell Leading Edge Realty
c/o Registered Agent: Edna Slaven
18102 Emerald Bay Street
Tampa, Florida 33647

We are in the Dough, Inc.
a/k/a Rolling in Dough, Inc.
d/b/a Dunkin Donuts-Baskin Robbins
c/o Registered Agent: Paul P. Jarabek
10709 Platanon Bay Drive
Tampa, Florida 33647

Eye Deal Optical, Inc.
d/b/a Eye Deal Optical
c/o Registered Agent: Robert E. Luckey, O.D.
18017 Highwoods Preserve Parkway
Tampa, Florida 33647

Jhoon Rhee Institute, Inc.
d/b/a Heimberger's Martial Arts Studio
c/o William Heimberger
18051-B Highwoods Preserve Parkway
Tampa, Florida 33647

Ho King Inn Corp
d/b/a Ho King Chinese Restaurant
c/o Registered Agent: Gun Yick Ho
18041 Highwoods Preserve Parkway, Box 13A
Tampa, Florida 33647

Hudson Cleaners II, Inc.
d/b/a Hudson Cleaners
c/o Registered Agent: Brian Ferwerda
2518 Regal Oaks Lane
Lutz, Florida 33559

Kisna, Inc.
d/b/a Subway, Store #30422
c/o Registered Agent: Nipa T. Patel
18089 Highwoods Preserve Parkway, Suite A-2
Tampa, Florida 33647

La Pink Boutique, Inc.
d/b/a La Pink Boutique
c/o Registered Agent: Amy B. Crumpton
18127 Regents Square Drive
Tampa, Florida 33647

Linens 'N Things, Inc.
d/b/a Linens 'N Things
c/o Registered Agent: Corporation Service Company
1201 Hays Street
Tallahassee, Florida 32301-2525

Michael D. Kanter, D.D.S., P.A.
c/o Registered Agent: Michael D. Kanter
460 West Davis Boulevard
Tampa, Florida 33606

MP Tennis, Inc.
d/b/a MP Tennis
c/o Registered Agent: Gregory C. Yadley
101 East Kennedy Boulevard, Suite 2800
Tampa, Florida 33602

My Pediatrics
c/o Michelle E. Kolb, M.D., P.A.
18055 Highwoods Preserve Parkway
Tampa, Florida 33647

NC Nail Salon
c/o Nancy Thuba Nguyen
12834 Big Sur Drive
Tampa, Florida 33625

Salon at the Walk, Inc.
d/b/a Salon at the Walk
c/o Registered Agent: Barbara Schlappig
10201 Quails Landing Avenue
Tampa, Florida 33647

Steak and Ale of Florida, Inc.
d/b/a Bennigan's Restaurant
c/o Registered Agent: The Prentice Hall Corporation System, Inc.
1201 Hays Street, Suite 105
Tallahassee, Florida 32301

A to Z Heating & Cooling, Inc.
c/o Irene A. Bassel, Esquire
Akerman Senterfitt
SunTrust Financial Centre
401 E. Jackson Street, Suite 1700
Tampa, Florida 33602

R.E.B. Air Conditioning, Inc.
c/o Registered Agent: Rita Brunk
7029 Bramblewood Drive
Port Richey, Florida 34668

September 18, 2007

REV. JANUARY 31, 2008

Project 2005-044-R
Bruce B. Downs Blvd.
CIP 61044
PARCEL No. 708TEMPORARY CONSTRUCTION
EASEMENT

THAT PART OF:

Tract "A-2" as shown on the plat of Richmond Place-Phase 2, recorded in Plat Book 83, Page 41 of the Public Records of Hillsborough County Florida, all lying and being in Section 13, Township 27 South, Range 19 East, Hillsborough County, Florida.

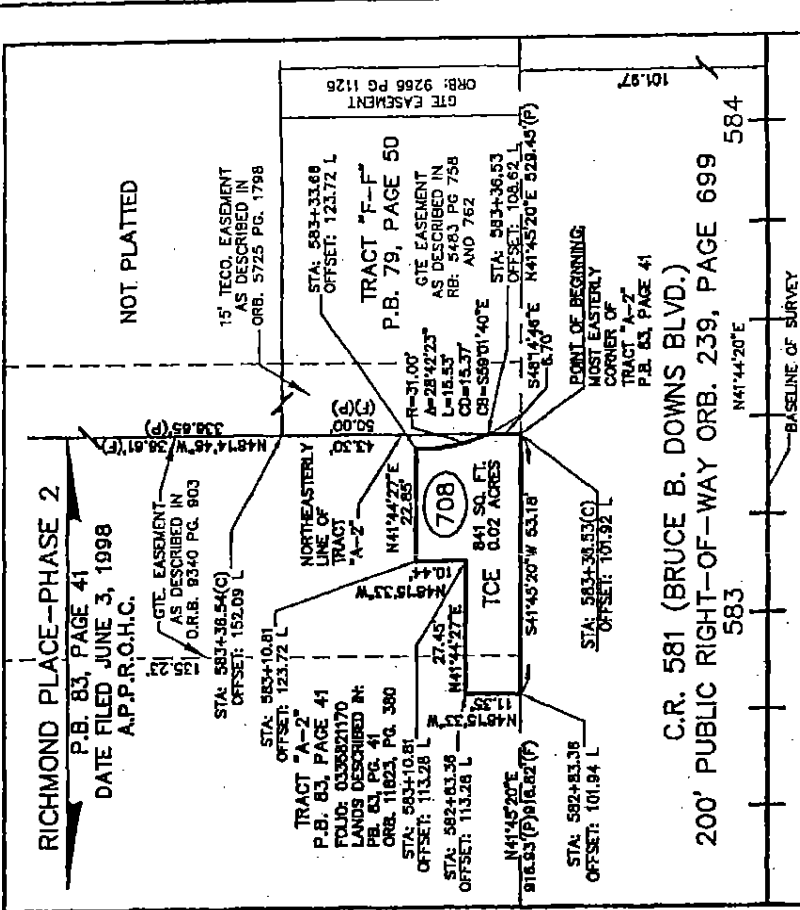
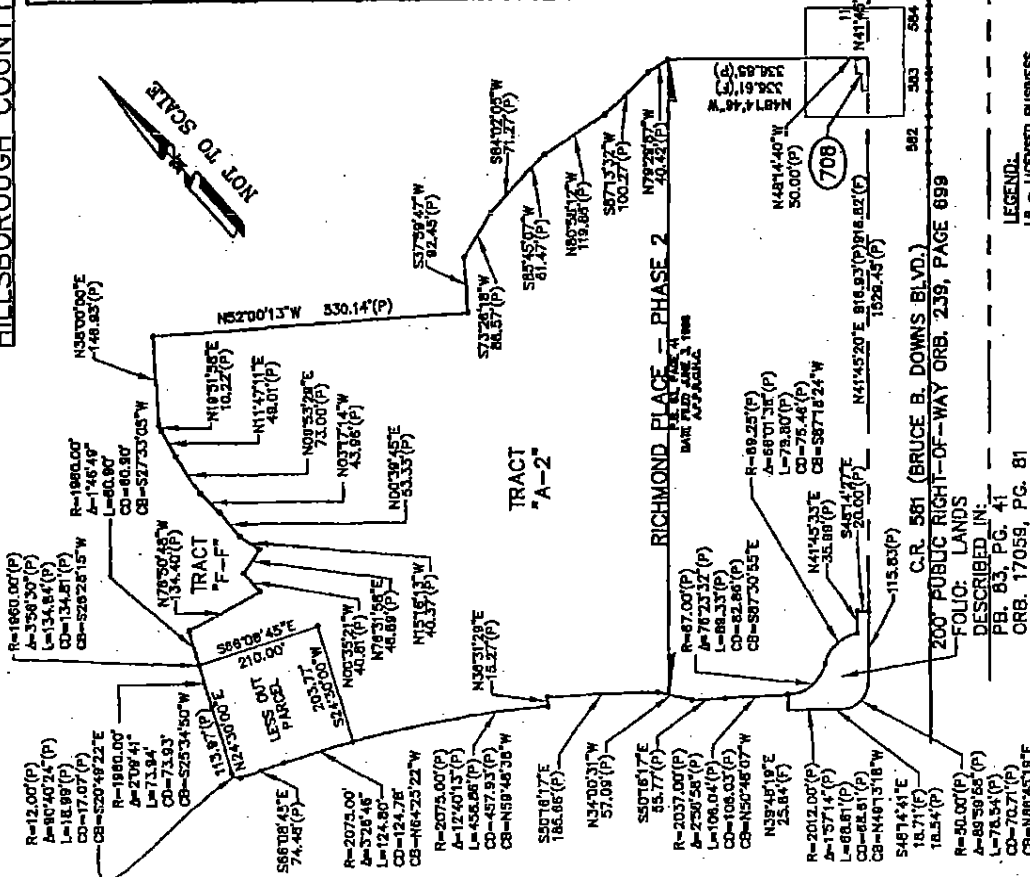
Lying within the following metes and bounds description:

Beginning at the most Easterly corner of Tract "A-2" as shown on the plat of Richmond Place-Phase 2, recorded in Plat Book 83, Page 41 of the Public Records of Hillsborough County Florida, said point also being a point of intersection with the Northwestern Right-of-Way line of County Road 581 (Bruce B. Downs Blvd.), said County Road being a 200.00 feet Right-of-Way as recorded in Official Record Book 239 Page 699, Hillsborough County, Florida; thence run South 41°45'20" West along said Right-of-Way line a distance of 53.18 feet; thence leaving said Right-of-Way line run North 48°15'33" West a distance of 11.35 feet; thence North 41°44'27" East a distance of 27.45 feet; thence North 48°15'33" West a distance of 10.44 feet; thence North 41°44'27" East a distance of 22.85 feet to a point on a curve concave to the northeast; thence Southeasterly along the arc of said curve a distance of 15.53 feet (said curve having a Radius of 31.00 feet, a Central angle of 28°42'23", a Chord Distance of 15.37 feet and a Chord Bearing of South 59° 01' 40" East), to a point of intersection with the Northeast line of aforementioned Tract "A-2"; thence run South 48°14'46" East along said Northeast line a distance of 6.70 feet to the aforementioned Northwestern Right-of-Way line of County Road 581 (Bruce B. Downs Blvd.) and the Point of Beginning.

Containing 841 square feet more or less.

Prepared By:
GPI SOUTHEAST, INC., LB 7560
6925 LAKE ELLENOR DRIVE, SUITE 101
ORLANDO, FLORIDA 32809
Harold B. Peters, P.S.M. No. 6301

The Description is not complete without the accompanying sketch sheets 1 through 1.

SECTION 13, TOWNSHIP 27 SOUTH, RANGE 19 EAST
HILLSBOROUGH COUNTY, FLORIDA2005-044-R
CIP 61044

DETAIL ~ NOT TO SCALE

BEARING BASED ON THE BASELINE OF SURVEY
FOR C.R. 581 (BRUCE B. DOWNS BLVD.)
(A 200' PUBLIC RIGHT-OF-WAY) AS
DESCRIBED IN ORB. 239, PAGE 699
BEING N41°44'20"E

NOT A SURVEY
THIS SKETCH PREPARED BY:
Gene D. Peters 05.13.2009
GENE D. PETERS, P.S.M. #5848
STATE OF FLORIDA
GPI SOUTHEAST INC.

LEGEND:
LB = LICENSED BUSINESS
(O) = (PER DEED)
R/W = RIGHT OF WAY
O.R.B. = OFFICIAL RECORDS BOOK
P.G. = PAGE
ST. = STATION
R = RADIUS
A = CENTRAL ANGLE
L = LENGTH
P.B. = PLAT BOOK
P.M. = PLAT MEASUREMENT
F.M. = FIELD MEASUREMENT
AC = ACRES
P.C. = POINT OF CURVATURE
P.B. = PLAT BOOK

C.R. 581 (BRUCE B. DOWNS BLVD.)
200' PUBLIC RIGHT-OF-WAY ORB. 239, PAGE 699
FOLIO: LANDS
DESCRIBED IN:
P.B. 83, PG. 41
ORB. 17058, PG. 81

HILLSBOROUGH COUNTY
COUNTY ENGINEER
DATE: 05/13/2009
FILE NO. 082-2011

BRUCE B. DOWNS
91985.01 HNTB CFS581
PARCEL 708

GPI
GPI SOUTHEAST INC.
1414 SW MARTIN LUTHER KING JR AVE
OCALA, FLORIDA 34471
(352) 308-5005 (LB 7560)